

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ENTROPIC COMMUNICATIONS, LLC

Plaintiff,

v.

CHARTER COMMUNICATIONS, INC.,

Defendant.

Civil Action No. 2:22-CV-00125-JRG

JURY TRIAL DEMANDED

**PLAINTIFF ENTROPIC COMMUNICATIONS, LLC'S
OPPOSITION TO CHARTER COMMUNICATIONS, INC.'S
OPPOSED MOTION TO AMEND THE DOCKET CONTROL ORDER**

Plaintiff Entropic Communications, LLC opposes Defendant Charter Communications, Inc.’s Motion to Amend the Docket Control Order. After the deadline had already passed, Charter filed this motion to retroactively extend the deadline for expert discovery—a deadline Charter itself chose and an extension Charter did not raise with Entropic until 9:30 p.m. central the day of. Because Charter has offered no cause for this extension, Entropic opposes.

“A party seeking to modify the Court’s Docket Control Order must show ‘good cause.’” *Seven Networks, LLC v. Google LLC*, No. 2:17-CV-00442-JRG, 2018 WL 4501952, at *4 (E.D. Tex. July 11, 2018) (quoting FED. R. CIV. P. 16(b)). In evaluating good cause, “the Eastern District of Texas considers (1) the explanation for the party’s failure to meet the deadline, (2) the importance of what the Court is excluding, (3) the potential prejudice if the Court allows the thing that would be excluded, and (4) the availability of a continuance to cure such prejudice.” *Id.* (quoting *Keranos, LLC v. Silicon Storage Tech., Inc.*, 797 F.3d 1025, 1035 (Fed. Cir. 2015)).

Here, Charter offers this Court no cause at all. There is no explanation in Charter’s motion as to why it failed to meet the expert discovery deadline (despite selecting the date itself), nor does Charter discuss any of the other factors. Instead, Charter’s argument appears to be that the parties’ previous extensions of the schedule—all done by filing joint motions for leave in advance of the deadlines, which the Court then granted—entitled Charter to ignore the deadline without seeking leave of Court in advance, or that Entropic will suffer no prejudice. But this Court has expressly rejected such arguments. *See Seven Networks LLC*, 2018 WL 4501952, at *2 n.1 (“Apparently, some parties think it may be easier to ask forgiveness than it is to get permission. Such is definitely not the case when it comes to compliance with the Local Rules and the Patent Rules during practice before this Court.”); *id.* at *4 (lack of prejudice “is not sufficient to demonstrate good cause without

more; to hold otherwise would change the showing from one of good cause to one of no prejudice and absolve the movant from a failure based on harm to the opposing party alone.”).

This Court’s deadlines should be respected and not freely ignored. Because Charter has made no attempt to explain its failure to meet the deadline for expert discovery in the Docket Control Order, and otherwise has made no attempt to demonstrate good cause, Entropic respectfully opposes Charter’s motion.

Dated: October 11, 2023

Respectfully submitted,

/s/ James A. Shimota

James Shimota

Jason Engel

George Summerfield

Katherine L. Allor

Samuel P. Richey

Ketajh Brown

K&L GATES LLP

70 W. Madison Street, Suite 3300

Chicago, IL 60602

Tel: (312) 807-4299

Fax: (312) 827-8000

jim.shimota@klgates.com

jason.engel@klgates.com

george.summerfield@klgates.com

katy.allor@klgates.com

samuel.richey@klgates.com

ketajh.brown@klgates.com

Nicholas F. Lenning

Courtney Neufeld

K&L GATES LLP

925 Fourth Avenue, Suite 2900

Seattle, WA 98104-1158

Tel: (206) 623-7580

Fax: (206) 623-7022

nicholas.lenning@klgates.com

courtney.neufeld@klgates.com

Darlene Ghavimi

Matthew A. Blair

K&L GATES LLP

2801 Via Fortuna, Suite 650

Austin, Texas 78746

Tel: (512) 482-6800

darlene.ghavimi@klgates.com

matthew.blair@klgates.com

Christina N. Goodrich

Connor J. Meggs

K&L GATES LLP

10100 Santa Monica Blvd., 8th Floor

Los Angeles, CA 90067

Tel: (310) 552-5031

Fax: (310) 552-5001
christina.goodrich@klgates.com
connor.meggs@klgates.com

Peter E. Soskin
K&L GATES LLP
Four Embarcadero Center, Suite 1200
San Francisco, CA 94111
Tel: (415) 882-8046
Fax: (415) 882-8220
peter.soskin@klgates.com

Wesley Hill
Texas Bar No. 24032294
Andrea Fair
Texas Bar No. 24078488
Charles Everingham, IV
Texas Bar No. 787447
WARD, SMITH & HILL, PLLC
1507 Bill Owens Pkwy
Longview, TX 75604
Tel: (903) 757-6400
wh@wsfirm.com
andrea@wsfirm.com
ce@wsfirm.com

ATTORNEYS FOR PLAINTIFF
ENTROPIC COMMUNICATIONS, LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was filed electronically in compliance with Local Rule CV-5(a) and served via the Court's CM/ECF system on all counsel of record on October 11, 2023.

/s/ James A. Shimota
James A. Shimota